

REMARKS

Claims 1-60 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 5,662,108 to Budd et al. (“Budd”). Claim 51 has been amended to correct the erroneous duplication of claims 51 and 52. No claims have been amended to overcome any present or subsequent prior art rejection.

Withdrawal of Finality of Rejection

As an initial matter, Applicant requests withdraw of the finality of the rejections of claims 1-60, since the Examiner’s rejections of claims 2-60 do not have the specificity required to allow Applicant to adequately respond. Although the Examiner states in the office action that “it is the Applicant’s burden to indicate why this reference does not clearly anticipate,” the Examiner has the initial burden of properly rejecting the claims. For example, 35 U.S.C. §132 states, “Whenever, on examination, any claim for a patent is rejected, . . . the Director shall notify the applicant thereof, stating the reasons for such rejection, . . . together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application...” 37 C.F.R. §104(c)(2) states “In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.”

In light of the fact that the elements in almost all of the remaining claims 2-60 are patently missing from the disclosure of Budd, it is clear that the Examiner did not reject these claims based on a fair reading of Budd, but instead rejected these claims based on the rejection of claim 1.

Thus, Applicant submits that claims 2-60 have been improperly rejected, and as such, request the finality of the rejections be withdrawn, so that the Examiner can specifically point out to Applicant where the limitations of claims 2-60 can be found in Budd.

Response to Rejection of Claims 1-60

Without acquiescence that Budd is a §102(e) prior art reference, and without prejudice to antedate this reference should it become necessary, Applicant traverses the rejections of claims 1-60, since Budd does not disclose each and every element required by these claims.

Specifically, the Examiner refers to the two representations illustrated in Fig. 7 of Budd as deformable models. These representations, however, are not heart models that have been deformed. Instead, they are separately generated heart models. That is, for each set of measurements, a new heart model is generated from scratch. (see Fig. 5 of Budd). In contrast, the claimed inventions require the heart model to be deformed. For example, transformations can be sequentially performed on the the same heart model, so that it is dynamically deformed to the measured points as they are taken. (See specification, page 51, line 19 to page 60, line 21 for examples of heart model deformation methods, as well as examples of other features of the claimed invention.).

Thus, Applicant submits that claims 1-60 are not anticipated over Budd, and as such, respectfully request the Examiner to withdrawal the rejections of these claims.

Conclusion

Based on the foregoing, entry of this amendment and a Notice of Allowance is respectfully requested. If the Examiner has any questions or comments regarding this amendment, the Examiner

is respectfully requested to contact the undersigned at (714) 830-0600.

Respectfully submitted,

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